Is Capital Punishment Evil?

By Emmanuel Valenza.
Catholic Truth Society of Oregon No.do210 (1984)

The error of conceiving capital punishment as a moral evil is pervasive in much of the Catholic Church today. This is unfortunate. Arguments against the death penalty, as voiced by some Catholics, have a common denominator, namely, the punishment is unchristian. Such a position is untenable. The charge is most unusual because the Church perennially has defended the right of the State to put a criminal to death. In effect, the current anti-capital punishment sentiment accuses the Church, (Christ’s Church) of uncharitable behaviour for two millennia because she has sanctioned the State's right to "carry the sword," as Saint Paul puts it (Romans 13:4).

I say "in effect" because in most cases the Church's traditional support of the death penalty is simply ignored. The abolitionists claim, for sundry reasons, that the punishment is uncharitable — period.

In the following article, I will attempt to bring to evidence, by appealing to Scripture, tradition and reason, and stressing the insights of Saint Thomas Aquinas and Immanuel Kant {while the Catholic Church has condemned Kant’s liberal system of philosophy, nevertheless, his quotes are important as they show remarkable support for capital punishment from one of the most influential apologists of liberalism and therefore one of the chief spokesmen that the Church has to oppose while reading the ‘signs of the times’ and bring ‘modern’ society in line with Gospel values}, that capital punishment is a just and therefore charitable punishment because of the following 5 reasons:

1. it respects man as an image of God;
2. it is a punishment which is proportionate to certain heinous crimes;
3. it has a purgatorial effect on the soul;
4. it protects the common good; and
5. it treats the criminal as a person, as an image of God.

The defense of the death penalty will be clustered around three arguments against capital punishment in vogue among many Catholics. I will state the objections to the death penalty in the form of propositions. They should be recognizable to anyone even remotely acquainted with the subject of capital punishment.

First Argument Against Capital Punishment.

Argument: Modern man's rejection of capital punishment as morally wrong is indicative of his growing awareness of the dignity and value of human life. Those who support the death penalty, on the other hand, treat human life irreverently. If we are to revere life, we must revere all life, including the life of the criminal.

Ironically, the death penalty is first sanctioned in Genesis 9:6, precisely because the act of murder violates man's integrity as made in the image of God. Genesis 9:6 reads: "Whoever sheds the blood of man, by man shall his blood be shed; for in the image of God man was made." The sacred writer warrants the death penalty — not its abolishment — on the basis that it is a sign of reverence for the life of the murdered man. Recognition of the dignity, value and preciousness of man, in this text, demands that the murderer be put to death. Hand in hand with the recognition of the dignity and value of man is the conviction that, at this stage of salvation history, only the punishment of death is commensurate with the crime.

Conversely, the sacred writer implies that the failure to ratify capital punishment when a man is murdered bespeaks a lack of reverence for man as an image of God. The preciousness of the person, his dignity, his ontological value qua (as a) person — which the murderer blatantly disregards — is not esteemed unless the villain is put to death. That man is made in the image of God is a gift of priceless value. Genesis 9:6, I would argue, warns us, albeit indirectly, that the worth of the gift is grossly underestimated when the murderer is allowed to live, at least at this stage of salvation history and of God’s gradual manifestation of His Will.

Apropos of society's willingness to discard the death penalty, it is incontrovertible that such a desire cannot be adduced as indicative of an increased appreciation of the value of human life. On the contrary, the demand for the abolition of capital punishment is a sign of blindness, not appreciation; for the diabolical consequences of our irreverent attitude toward human life are myriad. Since the Roe versus Wade decision, some twenty million babies have been murdered by abortion. (Other estimates say it is a massive one and a half million killings each year!) Pornography in all its satanic forms permeates society. Suicide is a national plague. The many abuses in the realm of sex are omnipresent. Euthanasia is not without its proponents and practitioners. In light of this moral wasteland, the assertion that abolitionists witness to modern man's recognition of the value of life is preposterous.

What Constitutes Man as an Image of God?

Since Genesis 9:6 sanctions the death penalty on the grounds that man reflects God in a particular way, it is important to understand the nature of this reflection.

According to the traditional teaching of theologians, God is reflected in His creatures in the following ways: as a trace (vestigium), which is characteristic of all material entities; as an image (imago), which is characteristic of spiritual beings in their natural state; and as a likeness (similitudo), which is characteristic of spiritual beings in a supernatural state. For example, man's body is a trace; his soul, lacking grace is a divine image; and his soul perfected by grace, is a divine likeness.

Man is an image of God because of the rational soul’s powers of intellect, will, and love. He is able to grasp truth, choose the good, and love all that is true, good, and beautiful. These three powers — intellectual, volitional, and affective constitute man as an image of God. Divine likeness is achieved only in the state of grace, when he is "a partaker of the divine nature" (2 Peter 1:4).

Indeed, the soul is man’s crowning glory. So precious is our soul that it is worth the blood of the Son of God. We have been redeemed "...not with perishable things, with silver or gold, but with the precious blood of Christ, as a lamb without blemish and without spot" (1 Peter 1:18-19).

Heretics and the Soul.

Man is composed of body and soul. His material body is a trace of God; his soul, a spiritual substance, is an image of God. If the murderer is rightly condemned for destroying the life of the body, all the more should the "murderer" of the soul be condemned and ‘put to death’. Saint Thomas Aquinas argues in a similar vein when he answers the question: "Are heretics to be tolerated?" The Angelic Doctor writes:

On their side [the heretics' side] is the sin whereby they have deserved, not only to be separated from the Church by excommunication but also to be banished from the world by death. For it is a much heavier offense to corrupt the faith, whereby the life of the soul is sustained, than to tamper with the coinage, which is an aid to temporal life. Hence, if coiners, or other malefactors, are at once handed over by secular princes to die a just death, [as indeed happened in Saint Thomas’ day] much more may heretics, immediately after they are convicted of heresy, be not only excommunicated, but even justly done to die.

On the side of the Church, however, there is mercy which looks to the conversion of the wanderer, wherefore she condemns not at once, but "after the first and second admonition," as the Apostle directs (in Titus 3:10-11.)

(Summa Theologica, Second Part of the Second Part, question 11, article 3)

The person is not taken seriously as a spiritual creature, as a divine image, if heretics, who "corrupt the faith, whereby the life of the soul is sustained," are not punished — dare I say it? —with excommunication. What greater crime is there than the spiritual harm caused by heretics? Yet these contumacious individuals in our own days, these purveyors of the heresies of Modernism and Neo-Modernism are not even admonished, as they should be by pastors who are failing in their duties to Christ’s flock. In fact, they are the putative heroes of the day; at least, this is what our secular media would have us believe. Instead of being extirpated, they are held in high esteem for their perfidiousness. What a scandal!

The Church hierarchy stresses the dignity of the person in many of its official pronouncements. Fine, we all can agree. They point out that the main duty of public authorities is to protect the community and the common good. Great, we appreciate this leadership from our pastors. But Church officials do not provide a good example when they permit nefarious Church members to cause unbridled scandal in their own domain. To avoid the charge of hypocrisy, the guardians of the Catholic Faith should be solicitous for the spiritual well-being of Catholics before expecting secular authorities to administer to the common good.

Second Argument Against Capital Punishment.

Argument: Capital punishment is morally wrong because barbarous acts — murder, treason, et cetera — are punished with a barbarous act. The punishment is just as evil as the crime.

This objection would be cogent if the penalty of death were totally disproportionate to the crime. For example, condemning a person for stealing a candy bar. In this case, the punishment of death is barbarous. But when the punishment is proportionate to the crime, then the former is quite just. With regard to murder, Immanuel Kant, in The Metaphysics of Morals, exposes the soft underbelly of the abolitionists' objection:

If however, he has committed a murder, he must die. In this case, there is no substitute that will satisfy the requirements of legal justice. There is no sameness of kind between death and remaining

alive even under the most miserable conditions, and consequently there is also no equality between the crime and the retribution unless the criminal is judicially condemned and put to death...

It may also be pointed out that no one has ever heard of anyone condemned to death on account of murder who complained that he was getting too much punishment and therefore was being treated unjustly; everyone would laugh in his face if he were to make such a statement. (Translated as The Metaphysical Elements of Justice, New York: The Bobbs-Merrill Company, Incorporated, 1965, pages 104 and 106.)

Moreover, the objection that capital punishment is an unjust act would be convincing if it referred to the act of the vigilante. Acts of vengeance by the private individual, for example, lynching, are indeed evil. But the objection is discredited once it is understood that the State has the right to use the death penalty.

Capital Punishment and the State.

The Church has acknowledged continuously the State's authority to put a person to death. For example, Saint Paul, after he points out that rulers act as God's representatives in punishing the criminal, speaks of the Roman policy of capital punishment with approval:

Let everyone be subject to the higher authorities, for there exists no authority except from God, and those who exist have been appointed by God. Therefore, he who resists the authority resists the ordinance of God and they that resist bring on themselves condemnation. For rulers are a terror not to the good work but to the evil. Do you wish, then, not to fear the authority? Do what is good and you will have praise from it. For it is God's minister to you for good. But if you do what is evil, fear, for not without reason does it carry the sword. For it is God's minister, an avenger to execute wrath on him who does evil. (Romans 13:1-4.)

When the proper authority punishes — an instance of forceful correction, according to Saint Thomas — it is an act of justice. Needless to say, the act is good, too, since it is an act and perfection of virtue.

Examined from the point of view of the one punished, punishment is a physical evil; pondered from the side of the authority empowered to punish, however, punishment is a good.

Punishment: Suffering as Expiatory of Evil.

Socrates revolutionized ethical theory with the discovery that it is better to suffer injustice than to commit it. Evil, for Socrates, does not consist in the mere or exclusive act of inflicting pain on others (physical evil). He is concerned with moral evil. Callicles and Polis, in ‘dialogue’ with him, find this teaching absurd. They think injustice is bad because the individual exposes himself to punishment. Hence, according to them, to do evil and get away with it is a great good. For Socrates, on the other hand, this is the worst evil for man (Gorgias, 479d). Why? Because the person will carry the burden of the evil in his soul as long as he does not undergo the cleansing power of a just punishment (Gorgias, 477; 480). By submitting to justice, the person is released of the burden of injustice and he is much happier for doing so. This is the paradox of punishment (Gorgias, 473).

In order for this purification to take place, however, certain conditions must be met.

1. The criminal must freely submit to the punishment; and
2. the authorities must be willing to punish the offender.

Saint Thomas Aquinas emphasizes the purgatorial power of punishment too. The Common Doctor avers that punishment orders guilt: ‘retribution’ (in its technical theological and philosophical meaning) has as its object the maintenance or restoration of justice and order in the soul. For this reason, he holds that punishment is an act of virtue (Summa Theologica, Second Part of the Second Part, question 108, article 2).

Third Argument Against Capital Punishment.

One popular argument against capital punishment also recommends that punishment be abolished altogether in favor of forgiveness. I will now consider this objection.

Argument: Did not Christ replace the law of lex taliones with the law of love? Would not it be more charitable to forgive the criminal than to punish him? (Lex taliones is the ‘law of retaliation’, summed up by the phrase ‘eye for an eye’.)

Christ did replace the law of retribution with His commandment of love. He urges Christians to relinquish their individual rights for the sake of charity:

You have heard that it was said — 'An eye for an eye and a tooth for a tooth.' But I say to you not to resist the evildoer; on the contrary, if someone strike you on the right cheek, turn to him the other also... (Matthew 5:38-39.)

However, these words of Christ, which are often cited by the abolitionists as supportive of their position regarding capital punishment, refer to the offended individual, not to the State. As Dietrich von Hildebrand has shown, only the injured person (or someone closely related to the person) can forgive the objective evil done to him or her. In other words, the formal object of human forgiveness is the objective evil for the person; the wrong inflicted on the individual. The pardon refers to the evil intention of the villain inasmuch as it has the negative importance of an objective evil for the person. Note, however, that this does not mean the moral disvalue of the criminal's act is pardoned by the injured person; for only God (or His representatives on earth whom He has empowered to "bind and loose") can forgive this aspect of the morally evil act.

Hence, for Christians to suggest that the State should pardon the evildoer is to ask for something which is metaphysically impossible for the State to perform. The situation is akin to affirming that contradictory judgments can both be true: the words can be said but the judgment can never correspond to reality. Similarly, the State can make a declaration of forgiveness, but the act can never be exercised in reality.

The State Protects the Common Good.

The purpose of the State is to protect the community and the common good. Pope John XXIII defines "common good" in Pacem in Terris as follows: "The common good of all embraces the sum total of those conditions of social living whereby men are enabled to achieve their own integral perfection more fully and easily" (58).

And so the State has as its goal the perfection of persons, which in turn makes possible the perfect State. According to Saint Thomas, the end of the State — the perfect State — is realized when men are living virtuous lives. Moreover, the virtuous life is lived by adhering to the dictates of the natural moral law; such adherence is a divine good insofar as it is a participation in the eternal law (Summa Theologica, First Part of the Second Part, question 94, article 2).

Hence, inasmuch as the State guards the common good by sentencing a man to death, it is acting justly. As Saint Thomas puts it:

The slaying of an evil-doer is lawful inasmuch as it is directed to the welfare of the whole community, and therefore appertains to him alone who has charge of the community. Now the care of the common good is entrusted to rulers having public authority; and therefore to them is it lawful to slay evil-doers, not to private individuals. (Summa Theologica, Second Part of the Second Part, question 64, article 3)

The Law of Lex Taliones.

Far from being unjust or uncharitable, the law of retribution assures the actualization of justice because the criminal is punished in accord with his or her crime. "All other standards," Kant writes, "fluctuate back and forth, and because extraneous considerations are mixed with them, they cannot be compatible with the principle of pure and strict legal justice" (The Metaphysical Elements of Justice, page 101).

Granted, there are criminal acts which cannot be punished "eye for an eye" Two such acts are bestiality and rape. When the law of retribution cannot be strictly applied, the villain should suffer "that which according to the spirit of the penal law — even if not to the letter thereof — is the same as what he has inflicted on others," Kant rightly asserts (The Metaphysical Elements of Justice, page 133).

In the Old Testament, the law of retribution is sanctioned in Exodus 21:23-25, and in Leviticus 24:17-21. In addition, the law proclaimed on Mount Sinai ratified the death penalty for the following crimes:

- murder (Exodus 21:12-14);
- assaulting one's mother or father (Exodus 21:15);
- kidnapping (Exodus 21:16);
- cursing one's mother or father (Exodus 21:17);
- and bestiality (Ex. 22: 18-19).
- In the case of someone caught housebreaking at night (Exodus 22:1) it was not regarded as murder if the thief was struck a mortal blow in the affray. Such extenuation was not permitted if the incident occurred in daylight.

(No argument is being made to restore these sins as capital crimes, as Christ has now fulfilled and completed the Mosaic Law. However, it is to be noted that God Himself handed on these instructions for capital punishment at that stage of salvation history.)

Punishment is a Matter of Justice.

Punishment is a matter of justice: injustice ought to be punished. ‘Retribution’ is due the criminal. To the degree that punishment gives the criminal what is due him, it is just; and insofar as it is just, it is also charitable. Thus, the primary question with regard to punishment should be: "Is the punishment just?" All other deliberations — utilitarian, pedagogical, or deterrent — are as Kant points out, "extraneous considerations" (though still considerations worthy of reflection). There is a

due relation between crime and punishment; the individual should be punished if and only if he has committed a crime. Kant explains:

Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for civil society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime... He must first be found to be deserving of punishment before any consideration is given to the utility of this punishment for himself or for his fellow citizens. The law concerning punishment is a categorical imperative, and woe to him who rummages around the winding paths of a theory of happiness looking for some advantage to be gained by releasing the criminal from punishment or by reducing the amount of it. (The Metaphysical Elements of Justice, page 100).

So seriously does Kant take the concept of due relation between crime and punishment — and this is as it should be — that he correctly asserts:

Even if a civil society were to dissolve itself by common agreement of all its members, (for example, if the people inhabiting an island decided to separate and disperse themselves around the world), the last murderer remaining in prison must first be executed, so that everyone will duly receive what his actions are worth. (The Metaphysical Elements of Justice, page 102).

No Punishment, No Person.

If the concept of due relation between crime and punishment is not considered, the question of justice is left out altogether. Once the question of justice is discarded, then the criminal is treated as something less than a person, an image of God. Instead of being treated as a person who is morally responsible for his actions, he becomes the object of experiments, ("Let us see how he reacts in this environment") deals, ("If you supply us with information, your sentence will be reduced"), and ridicule (when used as a scapegoat). As C. S. Lewis observes in his essay, The Humanitarian Theory of Punishment:

Thus when we cease to consider what the criminal deserves and consider only what will cure him or deter others, we have tacitly removed him from the sphere of justice altogether; instead of a person, a subject of rights, we now have a mere object, a patient, a 'case'.

Moreover, if curing the criminal or deterring others, are the only considerations, then the doctrine of determinism is tacitly, if not explicitly, introduced. You see, criminals cannot be punished because man is not free; he is the product of circumstances; the plaything of experiences. What he wills he cannot help but will; for his character has been determined by irrational factors such as upbringing, social and economic conditions, psychological and biological considerations, and the like. Man does not determine his character; his character is the result of experiences and circumstances beyond his control.

The determinist cannot use words like "deplorable," "wicked," "shameful," and "disgraceful" to describe heinous acts because these words make sense only if the criminal is free to choose between good and evil, and therefore is responsible for his actions. If the determinist recommends punishment, it is to cure the offender, or to use him to deter others – sometimes both – but never as a means of retribution for criminal acts. Therefore, the criminal is treated as something less than a person. And to consider the criminal in this manner is to remove him from the realm of justice altogether. Justice presupposes a person; an animal or an inanimate object can neither possess the perfection of justice nor be the object of it.

[Our author now has some negative comments to make about the United States Bishops' statement on Capital punishment. In fairness, we have reproduced that statement here and taken the liberty of highlighting some statements to which our author might not have fully turned his mind.]

U.S. Catholic Bishops' Statement on Capital Punishment.

Approved by the U.S. Bishops in November 1980.

INTRODUCTION.

In 1974, out of a commitment to the value and dignity of human life, the U.S. Catholic Conference, by a substantial majority, voted to declare its opposition to capital punishment. As a former president of the National Conference of Catholic Bishops pointed out in 1977, the issue of capital punishment involves both "profound legal and political questions" as well as "important moral and religious issues." (Statement on Capital Punishment, Archbishop Joseph L. Bernardin, President National Conference of Catholic Bishops, January 26, 1977. See also Community and Crime, Statement of the Committee on Social Development and World Peace, United States Catholic Conference, February 15, 1978, page 8.) And so we find that this issue continues to provoke public controversy and to raise moral questions that trouble many. This is particularly true in the aftermath of widely publicized executions in Utah and Florida and as a result of public realization that there are now over 500 persons awaiting execution in various prisons in our country.

The resumption of capital punishment after a long moratorium, which began in 1967, is the result of a series of decisions by the United States Supreme Court. In the first of these decisions, Furman v. Georgia (1972), the Court held that the death penalty as then administered did constitute cruel and unusual punishment and so was contrary to the Eighth Amendment to the Constitution. Subsequently in 1976, the Court upheld death sentences imposed under state statutes which had been revised by state legislatures in the hope of meeting the Court's requirement that the death penalty not be imposed arbitrarily. These cases and the ensuing revision of state and federal statutes gave rise to extended public debate over the necessity and advisability of retaining the death penalty. We should note that much of this debate was carried on in a time of intense public concern over crime and violence. For instance, in 1976 alone, over 18,000 people were murdered in the United States. Criticism of the inadequacies of the criminal justice system has been widespread, even while spectacular crimes have spread fear and alarm, particularly in urban areas. All these factors make it particularly necessary that Christians form their views on this difficult matter in a prayerful and reflective way and that they show a respect and concern for the rights of all.

We should acknowledge that in the public debate over capital punishment we are dealing with values of the highest importance: respect for the sanctity of human life, the protection of human life, the preservation of order in society, and the achievement of justice through law. In confronting the problem of serious and violent crime in our society, we want to protect the lives and the sense of security both of those members of society who may become the victims of crime and of those in the police and in the law enforcement system who run greater risks. In doing this, however, we must bear in mind that crime is both a manifestation of the great mysteries of evil and human freedom and an aspect of the very complex reality that is contemporary society. We should not expect simple or easy solutions to what is a profound evil, and even less should we rely on capital punishment to provide such a solution. Rather, we must look to the claims of justice, as these are understood in the current debate and to the example and teaching of Jesus, whom we acknowledge as the Justice of God.

I. PURPOSES OF PUNISHMENT.

Allowing for the fact that Catholic teaching has accepted the principle that the state has the right to take the life of a person guilty of an extremely serious crime, and that the state may take appropriate measures to protect itself and its citizens from grave harm, nevertheless, the question for judgment and decision today is whether capital punishment is justifiable under present circumstances. Punishment, since it involves the deliberate infliction of evil on another, is always in need of justification. This has normally taken the form of indicating some good which is to be obtained through punishment or an evil which is to be warded off. The three justifications traditionally advanced for punishment in general are retribution, deterrence, and reform.

Reform or rehabilitation of the criminal cannot serve as a justification for capital punishment, which necessarily deprives the criminal of the opportunity to develop a new way of life that conforms to the norms of society and that contributes to the common good. It may be granted that the imminence of capital punishment may induce repentance in the criminal, but we should certainly not think that this threat is somehow necessary for God's grace to touch and to transform human hearts.

The deterrence of actual or potential criminals from future deeds of violence by the threat of death is also advanced as a justifying objective of punishment. While it is certain that capital punishment prevents the individual from committing further crimes, it is far from certain that it actually prevents others from doing so. Empirical studies in this area have not given conclusive evidence that would justify the imposition of the death penalty on a few individuals as a means of preventing others from committing crimes. There are strong reasons to doubt that many crimes of violence are undertaken in a spirit of rational calculation which would be influenced by a remote threat of death. The small number of death sentences in relation to the number of murders also makes it seem highly unlikely that the threat will be carried out and so undercuts the effectiveness of the deterrent.

The protection of society and its members from violence, to which the deterrent effect of punishment is supposed to contribute, is a value of central and abiding importance; and we urge the need for prudent firmness in ensuring the safety of innocent citizens. It is important to remember that the preservation of order in times of civil disturbance does not depend on the institution of capital punishment, the imposition of which rightly requires a lengthy and complex process in our legal system. Moreover, both in its nature as legal penalty and in its practical consequences, capital punishment is different from the taking of life in legitimate self-defense or in defense of society.

The third justifying purpose for punishment is retribution or the restoration of the order of justice which has been violated by the action of the criminal. We grant that the need for retribution does indeed justify punishment. For the practice of punishment both presupposes a previous transgression against the law and involves the involuntary deprivation of certain goods. But we maintain that this need does not require nor does it justify taking the life of the criminal, even in cases of murder. We must not remain unmindful of the example of Jesus who urges upon us a teaching of forbearance in the face of evil (Matthew 5:38-42) and forgiveness of injuries (Matthew 18:21-35). It is morally unsatisfactory and socially destructive for criminals to go unpunished, but the forms and limits of punishment must be determined by moral objectives which go beyond the mere inflicting of injury on the guilty. Thus, we would regard it as barbarous and inhumane for a criminal who had tortured or maimed a victim to be tortured or maimed in return. Such a punishment might satisfy certain vindictive desires that we or the victim might feel, but the

satisfaction of such desires is not and cannot be an objective of a humane and Christian approach to punishment. We believe that the forms of punishment must be determined with a view to the protection of society and its members and to the reformation of the criminal and his reintegration into society (which may not be possible in certain cases). This position accords with the general norm for punishment proposed by Saint Thomas Aquinas when he wrote: "In this life, however, penalties are not sought for their own sake, because this is not the era of retribution; rather, they are meant to be corrective by being conducive either to the reform of the sinner or the good of society, which becomes more peaceful through the punishment of sinners." (Summa Theologica, Second Part of the Second Part, question 68, article 1.)

We believe that in the conditions of contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty. Furthermore, we believe that there are serious considerations which should prompt Christians and all Americans to support the abolition of capital punishment. Some of these reasons have to do with evils that are present in the practice of capital punishment itself, while others involve important values that would be promoted by abolition of this practice.

II. CHRISTIAN VALUES IN THE ABOLITION OF CAPITAL PUNISHMENT.

We maintain that abolition of the death penalty would promote values that are important to us as citizens and as Christians. First, abolition sends a message that we can break the cycle of violence, that we need not take life for life, that we can envisage more humane and more hopeful and effective responses to the growth of violent crime. It is a manifestation of our freedom as moral persons striving for a just society. It is also a challenge to us as a people to find ways of dealing with criminals that manifest intelligence and compassion rather than power and vengeance. We should feel such confidence in our civic order that we use no more force against those who violate it than is actually required.

Second, abolition of capital punishment is also a manifestation of our belief in the unique worth and dignity of each person from the moment of conception, a creature made in the image and likeness of God. It is particularly important in the context of our times that this belief be affirmed with regard to those who have failed or whose lives have been distorted by suffering or hatred; even in the case of those who by their actions have failed to respect the dignity and rights of others. It is the recognition of the dignity of all human beings that has impelled the Church to minister the needs of the outcast and the rejected and that should make us unwilling to treat the lives of even those who have taken human life as expendable or as a means to some further end.

Third, abolition of the death penalty is further testimony to our conviction, a conviction which we share with the Judaic and Islamic traditions, that God is indeed the Lord of life. It is a testimony which removes a certain ambiguity which might otherwise affect the witness that we wish to give to the sanctity of human life in all its stages. We do not wish to equate the situation of criminals convicted of capital offenses with the condition of the innocent unborn or of the defenseless aged or infirm, but we do believe that the defense of life is strengthened by eliminating exercise of a judicial authorization to take human life.

Fourth, we believe that abolition of the death penalty is most consonant with the example of Jesus, who both taught and practiced the forgiveness of injustice and who came "to give his life as a ransom for many." (Mark 10:45) In this regard we may point to the reluctance which those early Christians who accepted capital punishment as a legitimate practice in civil society felt about the

participation of Christians in such an institution (Tertulliam, De Idolatria, chapter 17) and to the unwillingness of the Church to accept into the ranks of its ministers those who had been involved in the infliction of capital punishment. (Code of Canon Law, Canon 984.) There is and has been a certain sense that even in those cases where serious justifications can be offered for the necessity of taking life, those who are identified in a special way with Christ should refrain from taking life. We believe that this should be taken as an indication of the deeper desires of the Church as it responds to the story of God's redemptive and forgiving love as manifest in the life of his Son.

III. DIFFICULTIES INHERENT IN CAPITAL PUNISHMENT.

With respect to the difficulties inherent in capital punishment, we note first that infliction of the death penalty extinguishes possibilities for reform and rehabilitation for the person executed as well as the opportunity for the criminal to make some creative compensation for the evil he or she has done. It also cuts off the possibility for a new beginning and of moral growth in a human life which has been seriously deformed.

Second, the imposition of capital punishment involves the possibility of mistake. In this respect, it is not different from other legal processes; and it must be granted our legal system shows considerable care for the rights of defendants in capital cases. But the possibility of mistake cannot be eliminated from the system. Because death terminated the possibilities of conversion and growth and support that we can share with each other, we regard a mistaken infliction of the death penalty with a special horror, even while we retain our trust in God's loving mercy.

Third, the legal imposition of capital punishment in our society involves long and unavoidable delays. This is in large part a consequence of the safeguards and the opportunities for appeal which the law provides for defendants; but it also creates a long period of anxiety and uncertainty both about the possibility of life and about the necessity of reorienting one's life. Delay also diminishes the effectiveness of capital punishment as a deterrent, for it makes the death penalty uncertain and remote. Death Row can be the scene of conversion and spiritual growth, but it also produces aimlessness, fear, and despair.

Fourth, we believe that the actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to perform or to witness the execution. Great writers such as Shakespeare and Dostoyevsky in the past and Camus and Orwell in our time have given us vivid pictures of the terrors of execution not merely for the victim but also for bystanders. (William Shakespeare, Measure for Measure, Act II, Scene 1; Fyodor Dostoevsky, The Idiot; George Orwell, "A Hanging"; Albert Camus, "Reflections on the Guillotine.")

Fifth, in the present situation of dispute over the justifiablity of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion. On the other hand, if a substantial proportion of the more than five hundred persons now under sentence of death are executed, a great public outcry can safely be predicted. In neither case is the American public likely to develop a sense that the work of justice is being done with fairness and rationality.

Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner. This belief can be affirmed with certain qualifications. There is a certain presumption that if specific evidence of bias or discrimination in sentencing can be provided for particular cases, then higher courts will not uphold sentences of death in these cases. But we must

also reckon with a legal system which, while it does provide counsel for indigent defendants, permits those who are well off to obtain the resources and the talent to present their case in as convincing a light as possible. The legal system and the criminal justice system both work in a society which bears in its psychological, social, and economic patterns the marks of racism. These marks remain long after the demolition of segregation as a legal institution. The end result of all this is a situation in which those condemned to die are nearly always poor and are disproportionately black. (See Charles Black, Jr., Capital Punishment (New York: Norton, 1974), pages 84-91.) Thus 47% of the inmates on Death Row are black, whereas only 11% of the American population is black. Abolition of the death penalty will not eliminate racism and its effects, an evil which we are called on to combat in many different ways. But it is a reasonable judgment that racist attitudes and the social consequences of racism have some influence in determining who is sentenced to die in our society. This we do not regard as acceptable.

IV. CONCLUSIONS.

We do not propose the abolition of capital punishment as a simple solution to the problems of crime and violence. As we observed earlier, we do not believe that any simple and comprehensive solution is possible. We affirm that there is a special need to offer sympathy and support for the victims of violent crime and their families. Our society should not flinch from contemplating the suffering that violent crime brings to so many when it destroys lives, shatters families, and crushes the hopes of the innocent. Recognition of this suffering should not lead to demands for vengeance but to a firm resolution that help be given to the victims of crime and that justice be done fairly and swiftly. The care and the support that we give to the victims of crime should be both compassionate and practical. The public response to crime should include the relief of financial distress caused by crime and the provision of medical and psychological treatment to the extent that these are required and helpful. It is the special responsibility of the Church to provide a community of faith and trust in which God's grace can heal the personal and spiritual wounds caused by crime and in which we can all grow by sharing one another's burdens and sorrows.

We insist that important changes are necessary in the correctional system in order to make it truly conducive to the reform and rehabilitation of convicted criminals and their reintegration into society. (See The Reform of Correctional Institutions in the 1970s, Statement of the United States Catholic Conference, November 1973.) We also grant that special precautions should be taken to ensure the safety of those who guard convicts who are too dangerous to return to society. We call on governments to cooperate in vigorous measures against terrorists who threaten the safety of the general public and who take the lives of the innocent. We acknowledge that there is a pressing need to deal with those social conditions of poverty and injustice which often provide the breeding grounds for serious crime. We urge particularly the importance of restricting the easy availability of guns and other weapons of violence. We oppose the glamorizing of violence in entertainment, and we deplore the effect of this on children. We affirm the need for education to promote respect for the human dignity of all people. All of these things should form part of a comprehensive community response to the very real and pressing problems presented by the prevalence of crime and violence in many parts of our society.

We recognize that many citizens may believe that capital punishment should be maintained as an integral part of our society's response to the evils of crime, nor is this position incompatible with Catholic tradition. We acknowledge the depth and the sincerity of their concern. We urge them to review the considerations we have offered which show both the evils associated with capital

punishment and the harmony of the abolition of capital punishment with the values of the Gospel. We urge them to bear in mind that public decisions in this area affect the lives, the hopes and the fears of men and women who share both the misery and the grandeur of human life with us and who, like us, are among those sinners whom the Son of Man came to save.

We urge our brother and sisters in Christ to remember the teaching of Jesus who called us to be reconciled with those who have injured us (Matthew 5:43-45) and to pray for forgiveness for our sins "as we forgive those who have sinned against us." (Matthew 6:12) We call on you to contemplate the crucified Christ who set us the supreme example of forgiveness and of the triumph of compassionate love.

Capital Punishment and the Bishops.

[Now, we can examine our author's reaction to the Bishops' statement.]

The objections to capital punishment analyzed in this article were given an impetus by the "Statement on Capital Punishment" issued by the bishops in 1980. J. Brien Benestad, in his book The Pursuit of a Just Social Order (Ethics and Public Policy Centre, Washington, D.C., 1982), summarizes the arguments used by the bishops to annul the death penalty. He writes:

The bishops asserted that abolition of the death penalty would promote four Christian values. It would:

1. show that we can break the cycle of violence characteristic of modern society;
2. manifest belief in the dignity of all human beings, who have great worth because they are created in the image of God;
3. testify to the Judeo-Christian and Islamic belief that God is the Lord of life and strengthen the defense of all life, including that of the unborn, the aged, and the infirm; and
4. be most consonant with the teaching and example of Jesus Who practiced forgiveness (pages 75-76).

Although the bishops concede that support of the death penalty is not incompatible with the teachings of Catholicism, they maintain — and want Catholics to maintain — that it is more appropriate as Catholics, more in keeping with the commands of Christ, to advocate abolition of the death penalty. Are not the bishops guilty of double-think? They fail to realize that if their arguments against capital punishment are valid, then support of the death penalty is unjust, uncharitable, and unchristian. One thing is certain: When the bishops speak individually on the subject of capital punishment (in my experience), they clearly assert that to uphold the death penalty is incompatible with the principles of the Catholic Faith. [Thus, this is our author's reaction to the Bishops' statement.]

The bishops' failure to uphold the death penalty is yet another example, in my opinion, of their propensity to reject the traditional teaching of the Church. (With the advent of neo modernism, the generality of American Bishops have NOT been prominent in insisting on the orthodox truth. One would be hard put to name an American equivalent to Saint Athanasius in opposing error and liturgical and theological aberrations.) Unfortunately, many Catholics follow their lead. Thus the

ever-increasing phenomenon of considering both the Church itself and Catholics who defend her teaching, as unchristian. Such an attitude must change. Catholics MUST defend Catholic teaching.

No. Capital Punishment is NOT an evil, per se (in itself). An informed Catholic will take a far more nuanced position.
